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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

CFDA Numbers: 93.581, 93.587, 93.612

Notice of Final Issuance on the Adoption of Administration for Native Americans (ANA) Program Policies and Procedures

AGENCY: Administration for Native Americans (ANA), ACF, HHS

ACTION: Issuance of Final Policy Relating to Funding Opportunity Announcements

SUMMARY: The Administration for Native Americans (ANA) is issuing final interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice relating to the following Funding Opportunity Announcements (FOAs): Social and Economic Development Strategies (hereinafter referred to as SEDS), Sustainable Employment and Economic Development Strategies (hereinafter referred to as SEEDS), Native Language Preservation and Maintenance (hereinafter referred to as Language Preservation), Native Language Preservation and Maintenance – Esther Martinez Immersion (hereinafter referred to as Language – EMI), and Environmental Regulatory Enhancement (hereinafter referred to as ERE).

DATES: The policies proposed in the Federal Register Notice for Public Comment (78 FR 76834, Dec. 19, 2013) are final and effective immediately upon this publication.

FOR FURTHER INFORMATION CONTACT: Carmelia Strickland, Director,
Division of Program Operations, ANA (877) 922-9262.

SUPPLEMENTARY INFORMATION: Section 814 of the Native American Programs Act of 1974 (NAPA), as amended, requires ANA to provide notice of its proposed interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice. The proposed clarifications, modifications, and new text will appear in the five Fiscal Year (FY) 2014 FOAs: SEDS, SEEDS, Language Preservation, Language – EMI, and ERE. ANA published a Notice of Public Comment (NOPC) in the Federal Register (78 FR 76834, Dec. 19, 2013), with proposed policy and program clarifications, modifications, and activities governing standing FOAs beginning with FY 2014 FOAs. The public comment period was open for 30 days.

This notice transmits ANA’s final policy governing standing FOAs to be published in FY 2014. ANA received 20 comments from entities affected by the FOAs including 1 Native Hawaiian organization and 4 federally recognized Indian tribes. Each comment was fully considered. This final notice summarizes all comments received and ANA’s responses to them.

A. Comments and Responses:

1. Comment: ANA received two comments in reference to ANA’s change to the frequency with which program progress reports must be submitted. Beginning with awards issued under the FY 2014 FOAs, program progress reports must be submitted semi-annually instead of quarterly. One commenter disagreed with the proposed change and recommended a program

progress report frequency of no less than three times a year in order to ensure that grantees had time to analyze the progress of project goals and demonstrate financial accountability. Another commenter expressed support for the change to semi-annual reporting, expressing the belief that such reporting frequency could be just as effective as quarterly reporting provided there was effective communication between ANA and grantees.

Response: ANA considered establishing a requirement for more frequent program progress reports but determined that semi-annual reporting is sufficient to provide grantees with opportunities to demonstrate the results of their on-going monitoring of project progress and provide ANA adequate information to maintain project accountability. ANA plans to increase the interaction it has with grantees through means other than reporting, including monthly one-on-one telephone calls and weekly webinars.

2. Comment: ANA received two comments related to proposed language requiring community involvement in both the development of proposed projects and in their implementation. One commenter praised ANA for clarifying that community involvement in the development of the project is required, as well as in the implementation of the project, and expressed the recommendation that the FOA include language related to how such required community involvement could be reflected. The other commenter requested clarification on how community members were expected to be involved in project implementation given that different community members may be

involved in the implementation of a project than those involved in the planning and development of a project.

Response: In Section IV.2. Content and Form of Application Submission of the FOA, ANA has included text providing examples of community input in the development of projects (e.g., community meetings and surveys) and in the implementation of projects (e.g., recruitment strategies and outreach activities). We believe the language related to community involvement in Section IV.2. Content and Form of Application Submission provides sufficient detail in its examples to provide clear guidance to applicants.

3. Comment: ANA received one comment related to language proposed in Section III.3. Other of the FOA clarifying the types of projects that ANA will not fund as prescribed by 45 CFR 1336.33 (b). The commenter asked for clarification of the scope of the funding prohibition as applied to on-going social service delivery systems.

Response: The text in Section III.3. Other of the FOA includes an explanation of the types of projects that ANA will not fund under the categorical prohibitions specified in 45 CFR 1336.33(b). Such ineligible projects are those that “provide or expand ongoing social services that involve cash transfers or other material assistance such as food, medicine, child care, or income support to individuals.” Here, we sought to make clear that if, prior to

submission of an application for funding, an applicant was already or had been delivering social services that involved cash transfers or other material support, ANA would not fund a project that proposed to use ANA grant funds to replace or supplant existing sources of funding or to expand existing social services on an on-going basis.

4. Comment: ANA received one comment related to another part of Section III.3. Other of the FOA clarifying the kinds of third-party technical assistance (TA) ANA will not fund as specified by 45 CFR 1336.33 (b) and what types of TA are permissible.

Response: The text in Section III.3. Other of the FOA related to third-party TA that cannot be funded under 45 CFR 1336.33(b) includes clarification that the prohibition applies only to TA “that is intended to be provided to other tribes or Native American organizations or to non-members of the grantee organization where such training or technical assistance is duplicative of ANA-funded training and technical assistance available to tribes and other entities that are eligible to apply for ANA funding.” Such clarification makes clear the scope of activities that fall into the regulatory prohibition regarding TA ineligible for ANA funding.

5. Comment: ANA received one comment expressing belief that the technology to enable all applicants to comply with a two-file application upload limitation was available and that an exemption from the requirement was unnecessary.

Response: The burden that the two-file application upload requirement imposed on applicants and potential applicants to convert and consolidate multiple documents comprised a significant amount of feedback received related to last year's FOAs. In addition, application of the two-file upload requirement required ACF to independently determine what files, or parts of files, to accept when more than two files were received and page limitations otherwise satisfied. Finally, in the absence of a tribal consultation (including through a Federal Register notice soliciting input) we determined that it would not accord with our Tribal Consultation Policy to impose this requirement on tribes.

6. Comment: One commenter disagreed with ANA's proposed policy to move the concept previously articulated in Section V.I. Criteria in the FOAs as "Project Integration" to the stand-alone criterion, "Objective Work Plan (OWP)," believing that merely requiring applicants to complete the OWP form was insufficient to allow reviewers to evaluate whether all aspects of a proposed project were fully integrated with one another.

Response: The change ANA proposed to Section V.I. Criteria was made to facilitate more focused attention on the applicant's integration of multiple project components documented through completion of the OMB-approved OWP form. The form requires that the connections among project goals, objectives, results expected, benefits expected, and activities be addressed. We believe the OWP form allows for adequate demonstration of how all aspects of the proposed project are integrated with one another and do not believe any change to the proposed policy is necessary.

7. Comment: One commenter objected to ANA's proposed policy establishing a 150 page limitation for all applications, including those that allowed for 5-year project periods. The commenter reasoned that a longer project period and larger budget made such projects more complex and required more explanation than 150 pages would allow.

Response: We believe 150 pages provide ample opportunity to respond to FOAs, including those proposing 5-year projects. The FOA makes clear the maximum page limit excludes required Standard Forms and OMB-approved forms. On the basis of ANA's consideration of recent grant competitions, we are confident the maximum 150 page limit applicable to all FOAs for all project periods is sufficient. Applications that exceed the maximum page limitation will have excess pages removed.

8. Comments: One federally recognized Alaska Native tribe submitted comments on 11 separate issues. The commenter expressed “no issues or concerns” related to the name change of one FOA, ANA’s administrative policies, name change of one disqualification factor, projects ineligible for funding, organizational changes to the evaluation criteria, and outcomes expected for SEEDS applications. Regarding the proposed language related to protection of sensitive and/or confidential information, the proposed weights assigned the evaluation criteria, the proposed clarification related to the requirement for community involvement, and language related to ANA’s internal review process, the commenter also expressed support for ANA’s changes. The commenter expressed disagreement with ANA’s conflict of interest administrative policy in Section I. Funding Opportunity Description, under which, with one categorical exception, staff employed through an ANA-funded project cannot also serve as a member of the governing body for the grantee organization. The commenter characterized the policy as burdensome on communities or villages with small populations.

Response: With regard to the disagreement with ANA’s conflict of interest administrative policy, ANA believes such policy is an appropriate risk management strategy that, with the categorical exception, best ensures appropriate grant oversight and independent judgment in the discharge of obligations under ANA-funded grants.

B. Funding Opportunity Announcements

For information on the projects funded by ANA, please refer to ANA's website for information on our program areas and FOAs:

<http://www.acf.hhs.gov/programs/ana>. We encourage interested applicants to sign up for updates on these FOA at HHS Grant Forecast at www.acf.hhs.gov/hhsgrantsforecast.

Once ANA's FOAs have been published, the FY 2014 FOAs can be accessed at <http://www.acf.hhs.gov/grants/open/foa/office/ana> or <http://www.acf.hhs.gov/grants/open/foa/>. Synopses and application forms will be available at www.Grants.gov.

STATUTORY AUTHORITY: This notice for public comment is required by Section 814 of the Native American Programs Act of 1974 (NAPA), as amended.

Lillian A. Sparks Robinson

Commissioner

Administration for Native Americans

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